## CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:		rce	e Discourt. U.S.	
Andrew Chiang		Team # 7	200502115	☑ Ab	use	O.L.	☐ Injury
Incident Date(s)		Location of Incident:		Preci	nct:	18 Mo. SOL	EO SOL
Saturday, 02/26/2005 9:00 PM		Atlantic Avenue and A Brooklyn	autumn Avenue,	7:	5	8/26/2006	8/26/2006
Date/Time CV Reported		CV Reported At:	How CV Reported:	Dat	e/Time	Received at CC	RB
Sun, 02/27/2005 1:15 PM		CCRB Phone		Mon, 02/28/2005 10:32 AM			
Complainant/Victim	Type	Home Addre	ess				
Witness(es)		Home Addre	ess				
Subject Officer(s)	Shield	TaxID	Command				
1. POM Abraham Arteaga	27115	929657	075 PCT				
2. SGT Roberto Melendez	05442	899587	075 PCT				
Officer(s)	Allegati	on			Inves	stigator Reco	mmendation
A.POM Abraham Arteaga	Abuse: PO Abraham Arteaga stopped the car in which was an occupant.						
B.SGT Roberto Melendez	Abuse: Sgt. Roberto Melendez stopped the car in which was an occupant.						
C.SGT Roberto Melendez	Abuse: Sgt. Roberto Melendez authorized the arrest of § 87(2)(b)						
D.SGT Roberto Melendez	Abuse: Sgt. Roberto Melendez authorized the issuance of summonses to \$87(2)(b)						
E.SGT Roberto Melendez	Abuse: Sgt. Roberto Melendez searched the car in which was an occupant.						

## **Synopsis**

<u>Synopsis</u>							
On February 26, 2005 at approximately 9:00pm, \$87(2)(b) and his passenger \$87(2)(b)							
were stopped by PO Abraham Arteaga and Sgt. Roberto Melendez while driving on							
Atlantic Avenue in Brooklyn. §87(2)(b) and §87(2)(b) claimed that the officers had followed them and							
stopped them without reason (allegations A and B). During the stop, PO Arteaga obtained \$87(2)(b) s							
driver's license and checked him for warrants. According to PO Arteaga, the search yielded the name of an							
individual who used \$87(2)(b) as an alias, who fit the physical description of \$87(2)(b) and who had							
an open warrant for his arrest. When PO Arteaga and Sgt. Melendez questioned \$87(2)(b) further about his							
identity, \$87(2)(b) was not compliant and refused to answer some of the questions. Sgt. Melendez decided							
that he had sufficient cause to arrest \$87(2)(b) (allegation C). After PO Arteaga transported \$87(2)(b) to the							
75 <sup>th</sup> Precinct stationhouse (Sgt. Melendez drove §87(2)(b) s vehicle there), the officers made additional							
attempts to verify §87(2)(b) s identity by obtaining more information about §87(2)(b) and the suspect in							
question. The officers later determined that §87(2)(b) was not the suspect in question, and released him with							
a summonses for \$87(2)(b) and for \$87(2)(b) (allegation D). When \$27(2)(b)							
returned to his car, he claimed that it showed signs of having been searched (Allegation E).							
§ 87(2)(g)							
Summary of Complaint							
-year old black male, filed this complaint over the phone on February							
28, 2005 (encl. 3a-b). \$87(2)(b) provided a telephone statement to the CCRB on March 2, 2005 (encl. 4a-b)							
and was interviewed at the CCRB on March 14, 2005 (encl. 5a-g). A summary of his interview statement							
follows.							
On February 26, 2005 at approximately 9:00pm, \$87(2)(b) drove with his friend \$87(2)(b) to							
a Getty gas station on Atlantic Avenue and Lowman Avenue in Brooklyn to buy some snacks. §87(2)(b)							
who is married with four children, stated that \$87(2)(b) who is \$87(2)(b) old, is a friend. That day, they							
had been listening to music and watching tv inside his car, and were planning to go bowling in Queens.							
was driving a green 2000 Dodge Intrepid with special rims on the wheels.							
§ 87(2)(b) parked next to the gas station's mini-mart and went inside. Upon exiting his car, § 87(2)(b)							
noticed a black unmarked sedan with tinted windows pull up near the gas pumps. Someone inside this							
vehicle rolled down a window and appeared to examine \$87(2)(b) s car. \$87(2)(b) did not notice this vehicle							
before he pulled into the gas station. §87(2)(b) made his purchase, got back in his car and drove onto Atlantic Avenue.							
After driving approximately eight blocks on Atlantic Avenue, \$87(2)(b) stopped at a red light at the Autumn Avenue cross street. \$87(2)(b) was the first car at the intersection in the middle lane of a three-lane							
road. §87(2)(b) noticed that the black sedan he saw earlier was one car behind the car to his left. When the							
light turned green, he switched on his right turning signal with the intention of turning into a convenience							
store that was located to his right past the intersection. According to \$87(2)(b) he wanted to buy barbecue							
chips and a grape soda, which he did not find at the gas station. §87(2)(b) drove into the middle of the							
intersection and was merging into the right lane when the unmarked car drove up behind him and flashed							
police lights. §87(2)(b) immediately pulled to the right and parked in front of a bus stop on Atlantic Avenue.							
The black unmarked car parked behind \$87(2)(b)  A police officer in civilian clothing (identified as PO Abraham Arteaga from the summonses he							
later issued to \$87(2)(b) approached \$87(2)(b) s side of the vehicle, and a second plainclothes officer							
(identified by the CCRB as Sgt. Roberto Melendez) approached \$87(2)(b) side. PO Arteaga asked sides asked side of the license and registration \$77(2)(b) gave PO Arteaga a Poppenhapia license that was issued and							
for his license and registration. §87(2)(b) gave PO Arteaga a Pennsylvania license that was issued on Language 12, 2005 (anal.) and an insurance gord but did not have his registration information. PO Arteaga							
January 12, 2005 (encl.) and an insurance card but did not have his registration information. PO Arteaga and Sgt. Melendez returned to their vehicle. Moments later, they returned and Sgt. Melendez asked							
for his social security number. §87(2)(b) told Sgt. Melendez that he was not comfortable with giving out							

his social security number because he has had his identity stolen in the past. Sgt. Melendez told §87(2)(b) he had to tell the officers his social security number in order to prove that he was who he claimed to be. §

years old, but \$\frac{87(2)(b)}{87(2)(b)}\$ denied that he was. They asked \$\frac{87(2)(b)}{87(2)(b)}\$ where he was from. \$\frac{87(2)(b)}{87(2)(b)}\$ of making up his name. When the officers again asked \$\frac{87(2)(b)}{87(2)(b)}\$ for his social security number, he finally gave it to them because he was afraid that he would be arrested.\frac{1}{2}\$ One of the officers asked \$\frac{87(2)(b)}{87(2)(b)}\$ for his mother's telephone number, but \$\frac{87(2)(b)}{2}\$ refused to provide it because he did not want his parents to worry about him. The officers continued to ask \$\frac{87(2)(b)}{2}\$ for more personal information. \$\frac{87(2)(b)}{2}\$ responded by giving them an expired New York license and his New York address, but it did not appear to satisfy the officers. After approximately 45 minutes of being stopped, the officers told \$\frac{87(2)(b)}{2}\$ to exit his car, handcuffed him and put him in the dark unmarked car. At some point, a marked patrol car had arrived and parked behind the unmarked car. The officers allowed \$\frac{87(2)(b)}{2}\$ to give \$\frac{87(2)(b)}{2}\$ cab money and told him that someone would drive his car to the police station.

While in the patrol car, one of the officers who stopped \$\frac{87(2)(b)}{87(2)(b)}\$ (he could not recall which one) told him that they were looking for a 40 year-old male who was using the name as an alias, and that \$\frac{87(2)(b)}{87(2)(b)}\$ fit this suspect's physical description. The officers subsequently asked \$\frac{87(2)(b)}{87(2)(b)}\$ questions involving credit cards and checks, but \$\frac{87(2)(b)}{87(2)(b)}\$ did not know what they were talking about.

After arriving at the 75<sup>th</sup> Precinct stationhouse, PO Arteaga brought \$\frac{87(2)(b)}{87(2)(b)}\$ to the front desk,

After arriving at the 75<sup>th</sup> Precinct stationhouse, PO Arteaga brought stationhouse, PO Arteaga brought to the front desk, searched him and placed him in a cell. At the cell, PO Arteaga told that the suspect they were looking for had certain tattoos on his body, and instructed to strip off his sweatshirt and t-shirt and bare his upper body. PO Arteaga instructed to lift up his arms and turn around. PO Arteaga wrote down stattoos and left. PO Arteaga did not instruct to take off any other articles of clothing. After approximately an hour, PO Arteaga returned and informed status that he would be released. However, PO Arteaga issued two summons, one for status status and the other for

When striction got to his car which was parked outside the stationhouse, he believed that it had been searched. The panel under his steering wheel and the panels on the side doors had been torn out. It also appeared as if the trunk and the glove compartment were searched because its contents seemed tossed around. A video tape containing footage that shows a damaged panel under steering wheel and the contents of his trunk (apparently untidy) but it does not show the glove compartment or the side panels.<sup>3</sup>

did not have any prior interactions with either PO Arteaga or Sgt. Melendez. stated that he filed this complaint because he felt harassed by the officers and he doesn't want it to happen to anyone else.

## **Results of Investigation**

Witness Statement  $a^{\S 87(2)(b)}$  -old black female  $\S 87(2)(b)$ was interviewed at the CCRB on March 14, 2005 (encl. 6a-c). A summary of her interview statement follows below. On February 26, 2005 § 87(2)(b) drove § 87(2)(b) to a gas station § 87(2)(b) could not recall the address) after picking her up from her house. They planned to go bowling together. §87(2)(b) parked in front of a convenience store at the gas station.  $\$^{87(2)(b)}$  went into the store while  $\$^{87(2)(b)}$ stayed in the car. While  $^{\S 87(2)(b)}$  was at the store,  $^{\S 87(2)(b)}$ noticed a dark colored sedan drive up and stop near 87(2) While was at the store, noticed a dark colored sedan drive up and stop near s car. Somebody inside the car rolled down a window appeared to be staring at street and his vehicle. When § 87(2)(b) went back to his car, § 87(2)(b) told him about what she saw. drove out of the gas station onto a main street \$87(2)(b) did not remember what noticed that the car she saw at the gas station followed one or two car lengths behind street). them while they drove. After driving approximately 4 blocks, this car flashed lights and sirens while was driving straight through an intersection. stated that \$87(2)(b) was not changing lanes or turning at the time. §87(2)(b) pulled over to the right and parked in front of a bus stop.

According to \$87(2)(b) telephone statement to the CCRB, he was arrested after he did not give the officers his social security number. \$87(2)(b) never indicated that he provided it to the officers before he was arrested.

<sup>&</sup>lt;sup>2</sup> In § 87(2)(b) telephone statements to the CCRB on February 28, 2005 and March 2, 2005, he claimed that he had been "strip-searched."

<sup>&</sup>lt;sup>3</sup> This tape is contained in the case file.

One plainclothes officer, identified by the CCRB as PO Arteaga, approached vehicle. A second plainclothes officer, identified by the CCRB as Sgt. Melendez, approached PO Arteaga asked for his license and registration, which structured and Sgt. Melendez returned to their vehicle. Approximately 15 minutes later, the officers returned and began to ask a series of questions about his age, address, and date of birth. Initially, as social security number, when PO Arteaga asked structured and refused to answer. This appeared to upset the officers, who continued to ask structured for his social security number. According to structured and physical description fit those of a suspect that they were looking for. They then asked structured and physical description fit those of a suspect that they could verify refused. At that time, PO Arteaga ordered and put him in their vehicle. Before being taken away by the police, structured and size of the they can be call so that they could verify and put him in their vehicle. Before being taken away by the police, structured and size of the they can be call so that they could verify and put him in their vehicle. Before being taken away by the police, structured and structur

## Officer Statements

PO Abraham Arteaga

PO Arteaga, a 887(2)(b) old Hispanic male who is 5 feet 11 inches tall and 180 pounds, was interviewed at the CCRB on May 25, 2005 (encl. 9a-b). His memo book entry (encl. 7) for this incident reads, "2105 – 1 car stop improper lane change. 2117 – 1 male under for (92c) investigation of warrant parole violation. 2228 – 2 summonses issued from precinct 75 to 87(2)(b) are ready for the summonses can be found in enclosure 8. The summary of his interview statement follows below.

On February 26, 2005, PO Arteaga was assigned to Anti-Crime duties with Sgt. Roberto Melendez. PO Arteaga stated that an Anti-Crime officer's responsibility is to look for illegal guns on the street. That day was the first day PO Arteaga, who was substituting for another officer, worked as an Anti-Crime officer. PO Arteaga had not worked with Sgt. Melendez before that day and has not worked with him since. PO Arteaga and Sgt. Melendez were dressed in civilian clothing and working in a green Chevy Impala. PO Arteaga was the driver of the vehicle and Sgt. Melendez was the passenger.

At approximately 9:00pm while driving eastbound on Atlantic Avenue (a three lane avenue), PO Arteaga observed a vehicle that he later determined was being driven by \$\frac{87(2)(b)}{2}\$ make a lane change from the middle to right lane on Atlantic Avenue without signaling, then immediately park in front of a bus stop. PO Arteaga and Sgt. Melendez were on the leftmost lane when he made this observation. PO Arteaga had observed \$\frac{87(2)(b)}{2}\$ s vehicle for approximately one minute before \$\frac{87(2)(b)}{2}\$ committed the lane change infraction. PO Arteaga first saw \$\frac{87(2)(b)}{2}\$ s vehicle while \$\frac{87(2)(b)}{2}\$ was driving on Atlantic Avenue and denied having monitored \$\frac{87(2)(b)}{2}\$ at a gas station.

Sgt. Melendez pointed out to PO Arteaga that street was parked at a bus stop. PO Arteaga decided to stop street at that point. PO Arteaga flashed police lights and pulled up behind street street. PO Arteaga approached street s

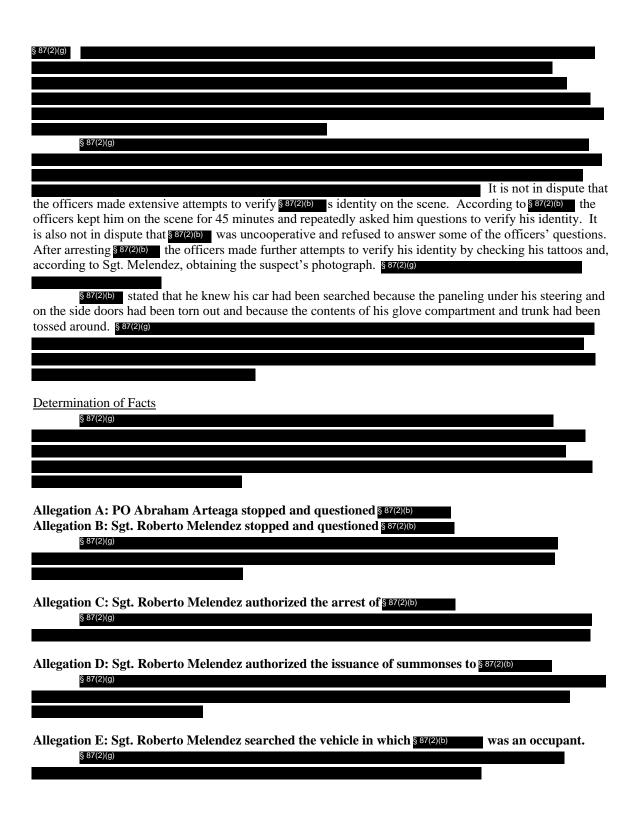
PO Arteaga asked for and obtained structured with Sgt. Melendez to their patrol car. There, PO Arteaga conducted a warrant check of the name structured with Sgt. Melendez to their patrol car. There, PO Arteaga conducted a warrant check of the name structured with Sgt. Melendez to their patrol car. There, PO Arteaga conducted a warrant check of the name structured with Sgt. Melendez to their patrol car. There, PO Arteaga conducted a warrant check of the name structured in the computer generated the name as an alias and had an open warrant for a parole violation. The computer also indicated that this person was 5 feet 6 inches tall, 160 pounds, and bald, fitting structured in the structured structured in the structured in th

PO Arteaga and Sgt. Melendez returned to set and began to ask him questions in order to investigate his identity. The officers asked for social security number, but security number, but social secur

At the stationhouse, PO Arteaga placed reveal his tattoos. PO Arteaga did not ask stationhouse. PO Arteaga did not ask stationhouse, Stationhouse, PO Arteaga did not ask stationhouse, PO Arteaga checked stationhouse, PO Ar individual with the open warrant, and determined that \$87(2)(b) was not that individual. Sgt. Melendez ordered PO Arteaga to release \$87(2)(b) with a summons for \$87(2)(b) and a summons for § 87(2)(b) did not have any open warrants against him. PO Arteaga denied searching \$87(2)(b) s car. PO Arteaga did not know whether Sgt. Melendez s car or whether his car was searched at all. Sgt. Roberto Melendez Sgt. Melendez, a § 87(2)(b) -old Hispanic male who is 5 feet 10 inches tall and 210 pounds, was interviewed at the CCRB on June 7, 2005 (encl. 11a-b). His memo book entry (encl. 10a-b) for this incident reads, "2117 – 1 arrest, PO Arteaga [corner of] Atlantic Avenue and [blank]. 2130 – 10-62 A [stationhouse]." The summary of his interview statement follows below. On February 26, 2005 at approximately 9:00pm, Sgt. Melendez and PO Arteaga were driving on Atlantic Avenue when PO Arteaga saw \$87(2)(b) change lanes in front of him without signaling. Sgt. Melendez did not make this observation. The officers had been behind \$\frac{\\$87(2)(b)}{\$87(2)(b)}\$ blocks but had not been following \$\frac{\\$87(2)(b)}{\$87(2)(b)}\$ Sgt. Melendez did not remember v s vehicle for "a couple" blocks but had not been following \$\frac{\mathbb{\text{87(2)(b)}}}{\mathbb{\text{87(2)(b)}}}\$ Sgt. Melendez did not remember whether he had previously seen \$\frac{\mathbb{\text{87(2)(b)}}}{\mathbb{\text{9}}}\$ parked at a gas station. \$\frac{\mathbb{\text{87(2)(b)}}}{\mathbb{\text{9}}}\$ parked at a bus stop near the corner of Atlantic Avenue and Autumn Avenue. Sgt. Melendez stated that \$\frac{\mathbb{\text{87(2)(b)}}}{\mathbb{\text{9}}}\$ parked there before the officers stopped him but also stated that he did not recall whether they flashed their turret lights before or after \$87(2)(b) parked at the bus PO Arteaga approached the driver's side of \$87(2)(b) s vehicle and Sgt. Melendez approached the passenger's side. After PO Arteaga obtained \$87(2)(b) s license and registration, the officers returned to their patrol car. PO Arteaga conducted a warrant check of \$87(2)(b) The patrol car's online computer revealed that there was an open warrant under the name PO Arteaga was responsible PO Arteaga was responsible for the warrant check and Sgt. Melendez did not recall what kind of warrant it was or whether \$87(2)(b) was listed as an alias. Sgt. Melendez stated that the physical description of the suspect fit \$87(2)(b) description. The computer also indicated that the suspect had tattoos on his arm but Sgt. Melendez did not remember seeing tattoos on sarm during the stop. Based on the information available, Sgt. Melendez decided that he had sufficient cause to conduct an investigative arrest of sar(2)(b) and did so. Sgt. Melendez did not recall asking for §87(2)(b) s social security number; however, he stated that PO Arteaga did all of the questioning. PO Arteaga transported \$87(2)(b) to the 75th Precinct in his patrol car. Sgt. Melendez drove § 87(2)(b) s vehicle back to the stationhouse for safekeeping because § 87(2)(6) did not have a license to operate it. Sgt. Melendez did not recall requesting an additional unit to arrive at the scene. At the stationhouse while §87(2)(b) was in a cell, Sgt. Melendez contacted the agency that issued the warrant the officers found during the warrant check and had it faxed to the stationhouse the suspect's photograph and personal information. Based on the photograph of the suspect, Sgt. Melendez determined that sationhouse for approximately was not the suspect with the open warrant. 30 minutes. Sgt. Melendez did not order \$87(2)(b) to take off any articles of clothing. PO Arteaga issued a summons for failure to signal and a summons for parking at a bus stop. Sgt. Melendez did not search searched by anyone else. To Sgt. Melendez's knowledge, no officer entered searched by searched by searched by anyone else. PD Documents A log of warrant checks for \$87(2)(b) that was obtained from the office of the New York State Police Superintendent (encl. 12a-c) displays nine searches for §87(2)(b) between 8:44pm and 10:59pm. The log does not indicate what information, if any, those searches yielded. The 75<sup>th</sup> Precinct command log (encl. 16) indicates that \$\frac{\$87(2)(b)}{}\$ was arrested at 9:17pm and charged with § 87(2)(b) ." Sgt. Flundry, the desk sergeant, noted on § 87(2)(b) entry "Warrant check, no hit."

**Summons Disposition** 

[C 07/0VI-1] [CC 06/4/0]0 (A) [C 07/0VA]
[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
Civil Case Status
Bruce Gomez at the New York City Law Department informed the CCRB over the phone on
December 23, 2005 that [887(2)(b)] did not file a notice of claim in regards to this incident.
Officer CCRB History
PO Arteaga has no substantiated CCRB allegations in his history (encl. 1b).  Sgt. Melendez possesses four substantiated CCRB allegations stemming from one complaint
(CCRB case number 200409169) in his history (encl. 1a), for which the CCRB recommended charges. Those allegations include "question and/or stopped," "vehicle searched," "frisk," and "search (of person)."
The NYPD has not rendered a disposition on those charges.
Civilian CCRB/Criminal Conviction History
\$ 87(2)(b) has not filed any prior CCRB complaints (encl.2). [§ 87(2)(b)] [§ 86(1)(3)&(4)] [§ 87(2)(c)]
<b>Conclusion and Recommendations</b>
Undisputed Facts On February 26, 2005, PO Arteaga and Sgt. Melendez stopped as he was driving his
vehicle eastbound on Atlantic Avenue. §87(2)(b) pulled his car over in front of a bus stop near the corner of
Atlantic Avenue and Autumn Avenue. After obtaining \$\frac{87(2)(b)}{2}\$ s driver's license and checking \$\frac{87(2)(b)}{2}\$ s name for warrants, PO Arteaga received information that led him to believe that \$\frac{87(2)(b)}{2}\$ was an individual
using an alias who had an open warrant for his arrest. PO Arteaga and Sgt. Melendez began asking
questions pertaining to his identity. §87(2)(b) was not compliant in answering the officers' questions.  After having stopped §87(2)(b) for 15 to 45 minutes, Sgt. Melendez decided to arrest §87(2)(b) PO Arteaga
transported (\$87(2)(b) to the 75 <sup>th</sup> Precinct stationhouse. Sgt. Melendez drove (\$87(2)(b) s vehicle to the
stationhouse. There, PO Arteaga and Sgt. Melendez took additional steps to verify sidentity and determined that he was not the individual they believed he was. Sgt. Melendez decided to release 87(2)(b)
but instructed PO Arteaga to issue §87(2)(b) two summonses - one, for §87(2)(b) , and the
other, for § 87(2)(b) .
Disputed Facts  I \$87(2)(9)
Assessment of Evidence  8 87(2)(b) and 8 87(2)(b) both claimed that they saw PO Arteaga and Sgt. Melendez observing 8 87(2)(b)
while he was at a gas station and that the officers later followed them and pulled them over without
reason. PO Arteaga and Sgt. Melendez denied following strong and claimed that they pulled him over after they saw him make an illegal lane change.
area and saw min make an megan and change.
that he was "going straight" stated that he was changing lanes; however, stated that he was changing lanes; however, stated



Investigator:	Date:
Supervisor:	Date:
Reviewed by:	Date:
Reviewed by:	Date: